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Counterclaim-Plaintiff McAfee, Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

TVIIM, LLC,

Plaintiff,

v.

MCAFEE, INC.,

Defendant.

**Civil Action No. 3:13-CV-04545-HSG**

**AMENDED DECLARATION OF  
LAURIE CHARRINGTON IN  
SUPPORT OF TVIIM'S  
ADMINISTRATIVE MOTION TO  
FILE UNDER SEAL (TVIIM'S  
MOTION TO EXCLUDE CERTAIN  
EXPERT TESTIMONY OF LANCE  
GUNDERSON)**

AMENDED CHARRINGTON DECL. ISO TVIIM'S  
MOTION TO SEAL (MOTION TO EXCLUDE CERTAIN  
EXPERT TESTIMONY OF LANCE GUNDERSON)

3:13-CV-04545-HSG

1 I, Laurie Charrington, declare and state as follows:

2 1. I am an attorney at Intel Corporation (“Intel”). My title is Senior Litigation  
3 Counsel, Law and Policy Group.

4 2. Pursuant to Local Rules 7-11 and 79-5, I submit this Declaration in support of  
5 TVIIM’s Administrative Motion to File Documents under Seal (D.I. 118) and in response to the  
6 Court’s Order Denying Motions to Seal (D.I. 171), to confirm that Exhibits 1-4, 6, 8-9, 11, 18-  
7 19 to the Declaration of John Shaeffer in Support of TVIIM’s Motion to Exclude Certain Expert  
8 Testimony of Lance Gunderson (“Motion to Exclude”) (D.I. 117) (“Shaeffer Declaration”), as  
9 well as the corresponding pages of TVIIM’s Motion to Exclude that disclose this information,  
10 are confidential and sealable. I have personal knowledge of the facts set forth in this  
11 Declaration and, if called as a witness, could and would competently testify to them under oath.

12 3. McAfee, Inc. (“McAfee”) is a wholly owned subsidiary of Intel. As part of my  
13 role at Intel, I am familiar with McAfee’s efforts to ensure that financial, marketing, sales, and  
14 product development, design, testing, and quality assurance information are not disclosed  
15 outside select groups of individuals within McAfee.

16 4. The requested relief is necessarily and narrowly tailored to protect the  
17 confidentiality of the information contained in the following exhibits.

18 5. McAfee will lodge with the court and serve on plaintiff TVIIM, LLC an  
19 unredacted copy of the exhibits referenced in this declaration, highlighting in green the specific  
20 portions of each page in each exhibit to which McAfee maintains a claim of confidentiality.  
21 Should the court grant TVIIM’s Motion to Seal the unredacted copy of these exhibits (Dkt.  
22 118), McAfee will publicly file redacted versions of these exhibits.

23 6. **Exhibit 1.** Exhibit 1 to the Shaeffer Declaration contains the February 16, 2015  
24 Expert Report of Lance E. Gunderson, McAfee’s damages expert in this litigation. McAfee  
25 designated this report as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the  
26 Protective Order (D.I. 62). This report discusses or otherwise references highly confidential  
27 McAfee financial information, business and marketing strategies, product development strategy

and design choices, as well as technical product information on certain portions of the following pages (as shown at the bottom center of the page): 11, 32-34, 36, 49-56, 59, 60-62, 65-66, 69-70, 76-80, 84-88.<sup>1</sup> This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal financial, product development, and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

7. **Exhibit 2.** Exhibit 2 to the Shaeffer Declaration contains excerpts from the transcript of the deposition of Candace Worley, Senior Vice President and General Manager of McAfee's Endpoint Security business unit. McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 15-17 contain highly confidential financial information, as well as highly confidential business and sales information. This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal financial and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

8. **Exhibit 3.** Exhibit 3 to the Shaeffer Declaration contains excerpts from the transcript of the deposition of Madhurima Pawar, McAfee's Director of Product Management. McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 44-52, 102, 203-04, and 219 contain highly confidential information reflecting McAfee's product development, marketing, and sales strategy, including rationales for its decisions. This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal product development and other proprietary information. It

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<sup>1</sup> McAfee will lodge with the court and serve on plaintiff TVIIM, LLC an unredacted copy of this exhibit and all other exhibits referenced in this declaration. McAfee has indicated with green highlighting the specific portions of each exhibit and cited page to which it maintains a claim of confidentiality. Should the court grant TVIIM's Motion to Seal the unredacted copy of these exhibits (Dkt. 118), McAfee will publicly file redacted versions of these exhibits.

1 is McAfee's practice and policy to maintain the confidentiality of this information and its  
2 disclosure would be harmful to McAfee.

3           9. **Exhibit 4.** Exhibit 4 to the Shaeffer Declaration contains an internal presentation,  
4 which McAfee designated as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the  
5 Protective Order (D.I. 62). Certain portions of pages (shown at the bottom right) 121-28, 131-  
6 32 contain highly confidential and proprietary information reflecting McAfee's product  
7 development strategy and design choices. This information could be used by McAfee's  
8 competitors to its disadvantage, particularly because it reveals McAfee's internal product  
9 development, design, and other proprietary information. It is McAfee's practice and policy to  
10 maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

11           10. **Exhibit 6.** Exhibit 6 to the Shaeffer Declaration contains an internal email, which  
12 McAfee designated as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the  
13 Protective Order (D.I. 62). Certain portions of pages (shown at the bottom right) 137-44  
14 contain highly confidential information concerning McAfee's product development, testing and  
15 strategy. This information could be used by McAfee's competitors to McAfee's disadvantage,  
16 particularly because it reveals McAfee's internal product development and other proprietary  
17 information. It is McAfee's practice and policy to maintain the confidentiality of this  
18 information and its disclosure would be harmful to McAfee.

19           11. **Exhibit 8.** Exhibit 8 to the Shaeffer Declaration contains an internal email  
20 marked "COMPANY CONFIDENTIAL," which McAfee designated as "CONFIDENTIAL –  
21 ATTORNEYS' EYES ONLY." Certain portions of pages (shown at the bottom right) 150-52  
22 contain highly confidential information concerning McAfee's product development, testing, and  
23 marketing strategy. This information could be used by McAfee's competitors to McAfee's  
24 disadvantage, particularly because it reveals McAfee's internal product development, testing,  
25 marketing and other proprietary information. It is McAfee's practice and policy to maintain the  
26 confidentiality of this information and its disclosure would be harmful to McAfee.

1           **12. Exhibit 9.** Exhibit 9 to the Shaeffer Declaration contains excerpts from the  
 2 transcript of the deposition of Greg Cummings, McAfee's Senior Director of Engineering.  
 3 McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES  
 4 ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 31 and 139-  
 5 41 contain highly confidential information reflecting McAfee's product development, testing,  
 6 and quality assurance timelines and strategies. These excerpts also reference and discuss the  
 7 highly confidential internal email discussed above and attached as Exhibit 8 to the Shaeffer  
 8 Declaration. This information could be used by McAfee's competitors to McAfee's  
 9 disadvantage, particularly because it reveals McAfee's internal product development, testing,  
 10 marketing and other proprietary information. It is McAfee's practice and policy to maintain the  
 11 confidentiality of this information and its disclosure would be harmful to McAfee.

12           **13. Exhibit 11.** Exhibit 11 to the Shaeffer Declaration contains excerpts from the  
 13 transcript of the deposition of Alexandra Yakubov, Worldwide Consumer Product Marketing  
 14 Manager at McAfee. McAfee designated the deposition transcript as "CONFIDENTIAL –  
 15 ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of  
 16 transcript pages 128-29 contain highly confidential version and release information regarding  
 17 the accused product's component software. This information could be used by McAfee's  
 18 competitors to McAfee's disadvantage. It is McAfee's practice and policy to maintain the  
 19 confidentiality of this information and its disclosure would be harmful to McAfee.

20           **14. Exhibit 18.** Exhibit 18 to the Shaeffer Declaration contains the January 16, 2015  
 21 Expert Report of Bruce McFarlane, TVIIM's damages expert in this litigation. TVIIM  
 22 designated this report as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the  
 23 Protective Order (D.I. 62). This report discusses or otherwise references highly confidential  
 24 McAfee financial information, business and marketing strategies, product development strategy  
 25 and design choices, as well as technical product information on certain portions of the  
 26 following pages: 2, 7-17, 20-23, 47-48, 50, 54-63, 85, 87-94, 96, 98-102, 104-05, 107-12, 114-  
 27 19, 125, 127-29, 131-32, 134, 136-41, 143-150. This information could be used by McAfee's

competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal financial, product development, and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

15. **Exhibit 19.** Exhibit 19 to the Shaeffer Declaration contains excerpts from the transcript of the deposition of Lance E. Gunderson, McAfee's damages expert in this litigation. McAfee designated the deposition transcript as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order (D.I. 62). Certain portions of transcript pages 126-27 discuss an internal McAfee document that McAfee designated as "CONFIDENTIAL – ATTORNEYS' EYES ONLY." This document further discusses McAfee's confidential product development and testing strategy.<sup>2</sup> This information could be used by McAfee's competitors to McAfee's disadvantage, particularly because it reveals McAfee's internal product development, testing, and other proprietary information. It is McAfee's practice and policy to maintain the confidentiality of this information and its disclosure would be harmful to McAfee.

16. TVIIM's Motion to Exclude discusses highly confidential information from Exhibits 1-4, 6-9, 11, and 19 to the Shaeffer Declaration, as shown below.<sup>3</sup>

Page(s):Line(s) Discussing McAfee's Highly Confidential Information	Highly Confidential Exhibits Cited and Discussed
4:2–5:4 and footnotes 6-8	Exhibits 1-4, 6-9, and 11
9:22–10:2 and footnote 20	Exhibits 1, 19
10:24-11:3	Exhibit 1

<sup>2</sup> The discussion on transcript page 127 suggests that the content in the underlying exhibit being discussed was communicated to third parties on a non-confidential basis. However, the exhibit itself (Exhibit 8 to the Shaeffer Declaration, discussed above) indicates that the content was distributed confidentially to other McAfee worldwide employees (through the internal email distribution list referred to as "DL WW Employees").

<sup>3</sup> TVIIM has already publicly filed a redacted copy of this Motion at Dkt. 116, and McAfee understands that TVIIM has already lodged with the court an unredacted copy of this Motion, highlighting at least the specific portions cited in this chart. McAfee accordingly does not intend to lodge with the Court nor serve on TVIIM another unredacted copy of this motion.

5:16-23

Exhibits 7-9

It is McAfee's practice and policy to maintain the confidentiality of this information. Disclosure of this information would be harmful to McAfee, for the same reasons discussed above.

17. McAfee does not maintain a claim of confidentiality with respect to Exhibit 5 to the Shaeffer Declaration.

I declare under the penalty of perjury under the laws of the United States of America that the forgoing is true and correct to the best of my knowledge. Executed this 15<sup>th</sup> of June, 2015 at Santa Clara, California.

Dated: June 15, 2015

By: /s/ Laurie Charrington

Laurie Charrington

**CIVIL LOCAL RULE 5-1(i)(3) ATTESTATION**

I hereby attest that concurrence in this filing had been obtained from Laurie Charrington and a copy of her original signature is on file.

Dated: June 15, 2015

/s/ Christine Capuyan

Christine Capuyan

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury under the laws of the United States that a true and correct copy of the above and foregoing document has been served on June 15, 2015, to all counsel of record who are deemed to have consented to electronic service via the Court's ECF system per Civil Local Rule 5-1.

Dated: June 15, 2015

/s/ Christine Capuyan

Christine Capuyan